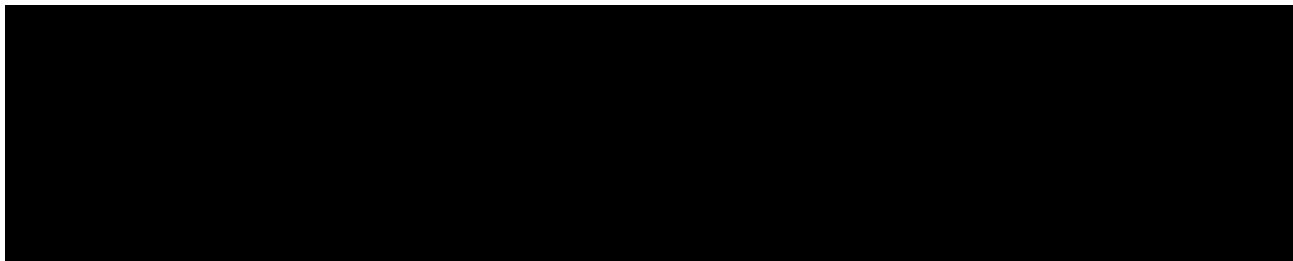
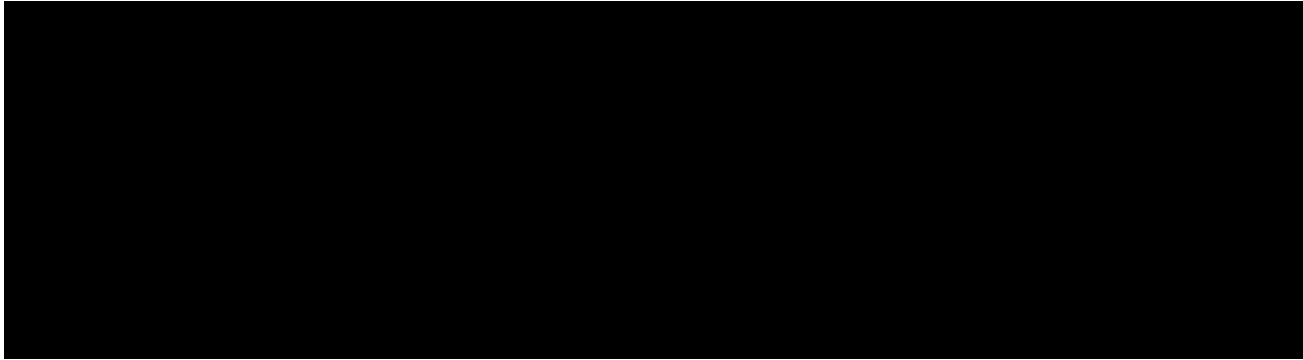


24. On October 28, 2022, before the defense case began the following week, the Government informed counsel for Cruz and Aponte via telephone of jail calls between Cruz and a man named Younes Ali discussing payments to Aponte for testimony that he was the leader/organizer in this matter, not Cruz. Moreover, the Government also informed them of a call between Younes Ali and Aponte discussing payment. The Government subsequently provided copies of those calls to the defense on October 31, 2022. The Government also sent the time stamps for the relevant statements to counsel via email.¹⁶



¹⁶ Email from AUSA Alejandra López to Leonard Fenn, Esquire and G.P. Della Fera, Esquire, (Oct. 31, 2022, 12:44 P.M. EST).



b. Cruz and Aponte’s Attempt to Suborn Perjury at Trial Supporting a Section 3C1.1 Adjustment.

During trial, the Government presented evidence to the Defense attorneys, which it spoke about on the record, of jail calls between a man called Younes Ali and Cruz speaking about paying Aponte \$10,000.00 to testify at trial that he was the leader/organizer of the Hobbs Act robbery conspiracy.¹⁶ Conversely, the Government also presented evidence of a jail call between Younes Ali and Aponte wherein Younes Ali offers to pay Aponte \$10,000.00 for “his story,” with the potential for further payments.¹⁷ After the Government’s disclosure of these calls to the defense, Cruz and Aponte opted not to testify at trial, therefore eliminating any chance of perjured testimony.

Regardless, this egregious attempt by Cruz and Aponte to suborn perjury at trial should not go unnoticed. The evidence in this case was clear that Cruz was the leader/organizer, and Aponte was a conduit and/or participator in the robberies. This evidence was so clear that it caused both the jury to reject Cruz’s arguments and find him guilty as charged, and for Probation to recommend

¹⁶ See ECF No. 748 at ¶ 24.

¹⁷ Cruz and/or Younes Ali could attempt to argue that Younes Ali was simply offering Aponte this money to create a documentary about Aponte. In isolation this occurrence could be happenstance. However, put together with the call with Cruz, the events are a pattern, and the rouse for the payments is easily debunked. Younes Ali acknowledges in the jail call with Aponte that he knows the conversation is being recorded; makes this offer to Aponte only after his call with Cruz discussing payment to Aponte for his false testimony; and makes the initial offer of money for the same amount discussed with Cruz. See ECF No. 748 at ¶ 24.

Cruz be assessed leader/organizer points. (ECF Nos. 702; 760 at ¶ 49). However, in an attempt to obstruct the truth and the administration of justice in this trial, Cruz and Aponte planned through a third party to exchange money for false testimony whose sole purpose was to influence the jury's verdict. Consequently, this abhorrent behavior goes to the very integrity of the administration of justice and, therefore, merits a Section 3C1.1 adjustment for both Cruz and Aponte.

